CASE NO. 9623/594 (Y00547US00)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

       Kraft, Timothy, et al.

Serial No.:	09/832,434
Filed:	April 10, 2001
For:	SYSTEM AND METHOD FOR MONITORTING THE INTERACTION OF RANDOMLY SELECTED USERS WITH A WEB DOMAIN

Examiner: Yasin M. Barqadle

    Group Art Unit: 2153

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450'Alexandria, VA 22313-1450

Dear Sir:

     In response to the Notification of Non Compliant Appeal Brief (37 CFR 41.37)

mailed November 27, 2007, Applicant has timely filed this Amendment by Certificate of

Mailing with a petition for a two month extension. Appellants respond with this

Amended Summary of Claimed Subject Matter and Response. Appellant respectfully

requests the Examiner to withdraw the objections to the Appeal Brief in view of the

following remarks and Amended Summary of Claimed Subject Matter.

REMARKS

1. Response to Notification

Appellant respectfully submits that both the Amended Appeal Brief filed August 20, 2007 and the Appeal Brief filed January 11, 2007 comply with 37 CFR 41.37(c)(1)(v). The current notification asserts "In the summary of the claimed subject matter, each argued claim must be identified separately, referring to the specification by page and line number and to the drawing. For example, each limitation in each independent claim and each dependent claim argued separately in the Appeal must be identified." The first sentence of 37 CFR 41.37(c)(1)(v) states that the Summary should include a "concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, be reference characters," but does not require a separate summary for each independent claim nor does it require each limitation in each independent claim and each dependent claim argued separately to be identified. Nevertheless, in the interest of moving this Appeal forward, the Appellant provides an Amended Summary below in accordance with MPEP §1205.03. The Amended Summary begins on the following page.

II. Amended Summary of Claimed Subject Matter

An understanding of the invention of independent claims 1, 8, 13, 17, and 21 and their respective dependent claims can be obtained upon a review of the embodiments of the invention described below and illustrated in the figures of the specification.

The present application relates to monitoring the interaction of <u>randomly selected</u> users with particular World Wide Web domains. In the past, one technique for monitoring user interaction involved use of a persistent client-side state to permit a server computer to store and retrieve information within a web browser used to access a web site by a computer. The server stores a unique value in each browser's cookie and makes a corresponding entry in its log file. The server then records the cookie associated with each browser request made to the applicable web site, thereby creating a log file associated with the site. Information relating to the user interaction with the site may be obtained by analyzing the file. (See ¶ [0005]).

This prior technique has been problematic because of the large amounts of data that can be produced by monitoring interaction of <u>all users</u> with a web site, and the attendant cost of storing and analyzing that information. Further, stored log files may inaccurately represent user behavior. (See ¶ [0006]).

The present invention defined by claims 1-23 overcomes these problems by monitoring usage of only a <u>sample population of users</u>, rather than all users. (See ¶ [0008]). In summary, the present invention pertains to methods and systems for monitoring usage of a web browser during interaction with a content server. (See, for example, Summary of the Invention; p.3, Figure 1; items 24 and 26).

Independent claim 1 is a system for monitoring usage of a web browser during interaction with a content server. Thus, claim 1 recites "a client component for determining whether a user identification code associated with said web browser indicates that said web browser is within a sampled population." (See, for example, Figure 1; ¶ [0008], lines 1-8; ¶ [0021], lines 3-7; ¶ [0027], lines 10-12; ¶ [0028], lines 1-4). Then, "in the event said web browser is included within said sampled population," the client component "transmit[s] usage data indicative of said interaction." (See, for example, Figure 2; ¶ [0008], lines 1-8; ¶ [0028], lines 6-12). Only if the user is within the sampled population does the user's web interaction get monitored and saved. (See, for example, Figure 2; ¶ [0021], lines 1-3; ¶ [0028], lines 6-12). Other dependent claims contain similar limitations. The specification and other claims provide details about how the sampled population is defined. For example the population may be randomly defined, or near-randomly defined. (See, for example, ¶ [0017], lines 1-7).

As explained in the specification at paragraph [0021], in accordance with some aspects of the present invention,

> an instrumentation or data collection script [is] downloaded only to a randomly selected population of users interacting with a particular Web site. That is, the data collection script is not automatically requested from the content server 26 upon downloading of a tagged HTML page from the content server 26 to a browser 40. Instead, only HTML pages proved to web browsers 40 within the randomly selected set are instrumented with the data collection script from the monitoring server 24. This approach enables meaningful trends in user behavior to be discerned through analysis of only a fraction of the usage data that would otherwise be collected by the monitoring server 24. In addition, this technique advantageously reduces the cost of collecting and processing such usage data and preserves user anonymity relative to other methods by tracking the behavior of a relatively fewer number of users. (*emphasis added*)

Independent claim 8 is directed to a system for monitoring usage of web browsers during interaction with a content server, where the web browsers are on

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distinct client computers. (See, for example, Summary of the Invention; Figure 1; ¶ [0015]-[0019]). Independent claim 8 includes a first client component communicatively coupled to a transmission channel (see, for example, Figure 1, item 22A, item 28), said first client component determining whether a first user identification code associated with said first web browser indicates that said first web browser is within a sampled population and transmitting a first set of usage data indicative of said interaction in the event said first web browser is included within said sampled population wherein said sampled population comprises a subset of a set of web browsers interacting with said content server (see, for example, Figure 2; ¶ [0008], lines 1-8; ¶ [0028], lines 6-12), a second client component communicatively coupled to said transmission channel (see, for example, Figure 1, item 22B, item 28), said second client component determining whether a second user identification code associated with said second web browser indicates that said second web browser is within said sampled population and transmitting a second set of usage data indicative of said interaction in the event said second web browser is included within said sampled population (see, for example, Figure 2; ¶ [0008], lines 1-8; ¶ [0028], lines 6-12), and a monitoring sever coupled to said transmission channel (See, for example, Figure 1, 24, 28), said monitoring server receiving any of said first set of usage data and said second set of usage data respectively transmitted by said first client component and said second client component (see, for example, Figure 2, items 22A, 22B, 28, and 24; ¶ [0017] lines 1-11).

Independent claim 13 of the claimed invention is directed to a method for monitoring usage of a web browser during interaction with a content server. (See, for example, Figures 2-3). The method includes determining if a web browser is within a subset of web browsers and generating usage data if the web server is within the subset. (See, for example, Figure 2; Abstract; ¶ [0021], lines 3-7; ¶ [0027], lines 10-12; ¶ [0028], lines 1-12). The usage data is transmitted and stored. (See, for example Abstract; ¶ [0017], line 11).

Independent claim 17 of the claimed invention is directed to a method for monitoring user interaction with a web browser executing on a client computer. (See, for example. ¶ [0020]). The method includes embedding an address within a file and downloading the address to a client computer. (See, for example, Figure 2; ¶ [0020], lines 7-9; ¶ [0022] lines 1-7), determining if a web browser is within a subset of web browsers and generating usage data if the web server is within the subset. ((See, for example, Figure 2; Abstract; ¶ [0021], lines 3-7; ¶ [0027], lines 10-12; ¶ [0028], lines 1-12). The usage data is transmitted and stored. (See, for example Abstract, ¶ [0017], line 11).

Independent claim 21 is an article of manufacture for the methods and systems described. The code within the article of manufacture is configured to determine whether a user identified code is within a subset of users to monitor. (See, for example, Figure 1, ¶ [0023]-[0026]). The article of manufacture also includes code to generate and enable transmission of the usage data. (See, for example, Summary of the Invention, ¶ [0020], lines 7-16).

There are no means-plus-function terms or step-plus-function terms in the claims on appeal.

3. Conclusion

As required by the Notice of Non-Compliant Appeal Brief, Applicant has submitted this Response including the attached Amended Summary of Claimed Subject Matter. It is further submitted that the objections to the Appeal Brief have now been overcome. Accordingly, withdrawal of the objections and entry of the Appeal Brief are respectfully requested.

Respectfully submitted,

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